

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVE ASQUE,)
Plaintiff)
)
vs.) Civil Action No. 07-294
) Judge Joy Flowers Conti/
COMMONWEALTH ALLEGHENY) Magistrate Judge Amy Reynolds Hay
COUNTY; HEATHER KELLY, Assistant)
District Attorney,)
Defendants)

ORDER

AND NOW, this 27th day of April, 2007, after the Plaintiff, Dave Asque, filed an action in the above-captioned case, and after a Report and Recommendation was filed by the United States Magistrate Judge granting the parties ten days after being served with a copy to file written objections thereto, and Plaintiff's copy of report and recommendation having been returned to the Court by Allegheny County Jail indicating that he was released on March 13, 2007, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the complaint is dismissed before service, pursuant to the authority granted courts by the Prison Litigation Reform Act (PLRA), for failure to state a claim upon which relief can be granted.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the plaintiff desires to appeal from this Order he must do so within

thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

/s/ Joy Flowers Conti
JOY FLOWERS CONTI
United States District Judge

cc: Honorable Amy Reynolds Hay
United States Magistrate Judge

Dave Asque
#40261
Allegheny County Jail
950 Second Avenue
Pittsburgh, PA 15219-3100